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Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1327th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 16 March 1999, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. SHERIFIS

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Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.99-40910 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Eleventh to fifteenth periodic reports of Mongolia (CERD/C/338/Add.3)

1. At the invitation of the Chairman, Mr. Bold, Mr. Tumur and Mr. Erdenebulgan (Mongolia) took places at the Committee table.

2. Mr. TUMUR (Mongolia) said that his Government hoped to learn valuable lessons from the Committee's examination of its report which he trusted would provide an impetus for furthering the implementation of the Convention in Mongolia.

3. During the 10 years since the submission of the previous report, Mongolia had witnessed radical changes in its political, social and economic system. The democratic reforms begun in 1990 had resulted in the dismantling of the old regime and Mongolia had become a country with parliamentary governance and a multiparty system; it was making a steady transition from a centrally planned to a market economy.

4. The new Constitution of Mongolia, adopted in 1992, included a special section proclaiming all human rights and fundamental freedoms. Over the period, a whole series of legal reforms relating to human rights had been introduced, with the adoption of 300 new laws, the amendment or revision of 200 other laws; a total of 50,000 legislative acts had been adopted.

5. In addition to establishing the legal framework for implementation of the Convention, Mongolia attached particular importance to human rights education, and had held a number of seminars on human rights with the cooperation of the Centre for Human Rights technical assistance programme, for lawyers, law enforcement officers, educators, governmental and non-governmental officials and other professionals. Raising public awareness of human rights and strengthening human rights education in Mongolia would remain major objectives for the Government.

6. Once the legislative foundations for the protection of human rights were laid, it was important to build mechanisms to ensure the implementation of the laws. Because Mongolia was under economic and financial strain, financial and technical assistance from international organizations and the donor community was needed to operate such structures.

7. In conclusion, he assured the Committee of his Government's strong commitment to compliance with its obligations under international human rights instruments and its will to do its utmost to ensure that all human rights were protected.

8. Ms. ZOU (Country Rapporteur) welcomed the resumption of dialogue with Mongolia after nearly a decade. The report had largely followed the Committee's guidelines, but was too simple in content and gave too little

information on specific legal provisions and actual implementation of the Convention. The Committee hoped that supplementary information would be provided by the delegation or in the next report.

9. Regarding the demographic composition of Mongolia, there were 15 ethnic groups, the largest being the Khalkhas, who accounted for 81 per cent of the total. Of the remaining 19 per cent, the largest minority group was made up of Kazaks, accounting for 6.1 per cent and constituting the most important non-Mongol ethnic minority. They had their own language, religious beliefs and customs and were concentrated in the western part of the country. During consideration of the previous report, Committee members had requested more information on the Kazaks, but the current report gave no information beyond their percentage of the total population. Were their religious beliefs respected and were there any mosques where they could worship? Could they use the Kazak language in the courts in the areas where they were concentrated? Were their ways and customs respected? What measures had the Mongolian Government taken to preserve their identity and customs?

10. According to her sources, the other ethnic minorities were basically Mongols, speaking different dialects. Again, the report contained scant information and the Committee would like to know about their general situation. What customs and practices or other special features differentiated them as ethnic groups?

11. The 10 years since the previous report had marked Mongolia's transition towards a market economy, with profound changes in the economic, political, cultural, ideological and other fields. What effects were those changes having on ethnic minorities? For example, what impact did the change in the system of ownership have on the economic life of ethnic minorities, and specifically those engaged in animal husbandry, agriculture or business? Were there any self-employed businessmen among the minorities and how many were there in percentage terms? How did the political changes affect the ethnic minorities' right to participate in the administration and discussion of State affairs; did they have more or less opportunity now than in the past? What impact did the changes have on the preservation of their special cultures?

12. The report stated that there were about 3,000 foreigners residing in Mongolia, roughly half from Russia and the other half from China. Many of the Chinese were said to be engaged in small business; was that the case? What were the major occupations of the Russians? Had any of the foreign citizens requested naturalization? Did the Mongolian Government treat all such requests equally?

13. Welcoming the legislative reform process under way, she said that the report did not specify whether there were any laws on ethnic minorities and against racial discrimination. As ethnic minorities accounted for around 19 per cent of the population, and Mongolia was a State party to the Convention, it was imperative that such laws be formulated. Did the Government have any plans to elaborate laws on ethnic minorities in accordance with the new Constitution and the provisions of the Convention?

14. Was the "article 7 of the Criminal Code" referred to in paragraph 8 the same as the "article 70" referred to in the previous report, or had Mongolia

adopted a new Criminal Code? The Committee regretted that the report still did not include the actual text of the article, and hoped it would be provided in the next report. It appeared that article 7 of the Criminal Code was in conformity with article 4 (a) of the Convention, but the requirements of article 4 (b) and (c) were apparently not met. The Mongolian Government might believe that no racist organization or activity existed in the country and that it was therefore unnecessary to formulate laws in that regard, but article 4 of the Convention was a mandatory article and the Committee's position thereon was contained in its General Recommendations VII (85) and XV (93). In a world where population movements occurred frequently, no country, particularly not one like Mongolia, with ethnic minorities and foreign residents, could guarantee that no such organization or activity would emerge on its territory. The Committee hoped that in amending its Criminal Code or incorporating new provisions, the Government would ensure it was fully in conformity with the provisions of article 4 pursuant to its obligations under the Convention.

15. With regard to article 5, it appeared from paragraph 11 that citizens had the right to invoke international treaties directly in any Mongolian court; was that the case? Did the courts provide translation for parties involved in court proceedings who did not speak Mongolian? Was there any legal aid system to assist those with economic difficulties?

16. The previous report had mentioned that 22 per cent of the 370 representatives who formed the Great Khural were from ethnic minorities, but the current report gave no such information. How many representatives were there currently from ethnic minorities; what was the percentage by minority? Was there an increase or a decrease compared to the period covered by the previous report? In local areas where the ethnic minorities lived, what was the percentage of ethnic minority representatives in local legislative bodies, for instance the percentage of Kazaks in local government in the west of the country? What percentage of official government posts were occupied by ethnic minorities overall? What were the percentages in areas where ethnic minorities were concentrated? She hoped the next report would give information on the share of ethnic minorities in the judicial branches of their local areas, such as how many judges, prosecutors and policemen were of minority origin.

17. The report stated that every Mongolian citizen had the right to free choice of employment. Over a decade previously, many overseas Chinese had been compelled to leave Mongolia and return to China to avoid being transferred, at the Government's behest, from the places where they lived and worked. She mentioned the case not because the people concerned had been Chinese but simply to inquire whether such cases still occurred. Did all people have the right to free choice of employment? What was the employment situation in Mongolia? What was the unemployment rate among ethnic minorities?

18. According to her information, the housing issue was handled fairly well, but she wished to know about the housing situation of the nomadic herdsmen. Did they have their own settlements? If they wanted to settle down did the Government provide them with assistance? Had the plan drawn up in 1987 to provide all children with middle-school education by the year 1995 been

carried to completion? She had heard that there were quite a number of school-age street children in the capital, Ulan Bator; what measures were the Government intending to take to provide education for those children? How was medical care provided in sparsely populated areas? Was the State still providing free medical care?

19. Were minority languages respected? Were there any newspapers, magazines or radio and television broadcasts in minority languages, such as the Kazak language?

20. There were two possible reasons for there having been no reports of cases involving discrimination (para. 18). Either there had indeed been no problems in that regard; or, because of insufficient information and education, people were unaware that racial discrimination constituted a crime, and minority populations were unaware that they could protect their rights by resorting to legal means and through the courts. The absence of reported cases did not necessarily mean the non-existence of racial discrimination. In any multi-ethnic society, the Government should never lower its guard. Even if there was no apparent discrimination, Governments should formulate laws against racial discrimination, provide education on the importance of eliminating racial discrimination and fighting racism, and adopt the corresponding measures.

21. With reference to article 19 of the Constitution, quoted in paragraph 17 of the report, she asked whether Mongolia had a State compensation law, and, if not, whether it had plans to formulate such a law. The Constitution could only lay down a general principle, whereas implementation required specific laws.

22. Regarding article 7, much had been done to provide human rights education in schools, but the Committee would like details of the Law on Education adopted in 1995 and hoped that the next report would include any articles of the law specifically against racial discrimination.

23. In its General Recommendation XIII (93) the Committee had requested States parties to include in their reports information on the training of law enforcement officials in human rights issues. Apart from the seminars mentioned in paragraph 29, was there any other systematic training of policemen, prosecutors, judges and lawyers? Did they all have access to a copy of the Convention against Racial Discrimination? Had the Convention indeed been translated into the Mongolian language? Were concerned parties able to read the concluding observations of the Committee?

24. Finally, she asked whether the Mongolian Government was prepared to ratify the amendment to article 8, paragraph 6, of the Convention and whether it was considering the possibility of making the declaration under article 14.

25. Mr. VALENCIA RODRÍGUEZ welcomed the demographic data provided, such information being crucial when assessing the implementation of the Convention in a multi-ethnic country such as Mongolia. With reference to the implementation of article 2, which was of fundamental importance, he was pleased to learn that the Mongolian Constitution prohibited ethnic discrimination, meaning that the various ethnic groups could practise their

languages and preserve their cultures and traditions. More details were needed, however, on the socio-economic conditions of those ethnic groups, which probably did not all enjoy the same level of development. Any measures adopted by the Mongolian Government to raise the standard of living of those groups would fall within the scope of article 2.2.

26. Stressing the importance of the 1993 Law on the Legal Status of Foreign Citizens, he pointed out that paragraph 7 of its article 10 stated that, in certain cases, restrictions could be imposed on the rights and freedoms of foreign citizens, with the exception of basic human rights. He inquired whether those basic human rights included the prohibition on racial discrimination, whether such restrictions had ever been imposed and on which rights in particular.

27. Regarding implementation of article 4, the information contained in paragraph 8 suggested that only the provisions of article 4 (a) and not 4 (b) were met. The Committee would appreciate further clarification on that point.

28. He requested more information on the exercise of the rights set out in article 5 of the Convention, in particular economic, social and cultural rights.

29. The information on the implementation of article 6 was very sketchy. The Committee would like to acquaint itself with the legislation which gave effect to the guarantees contained in article 19 of the Constitution and the provisions of article 6 of the Convention so as to be able to assess whether legal, administrative or other recourse was open to victims of acts of racial discrimination and whether adequate reparation or satisfaction could be obtained for damage suffered.

30. He welcomed the information provided on efforts made to promote tolerance and heighten awareness of basic human rights, as required by article 7 of the Convention. That was particularly important given the many ethnic groups in Mongolia. The adoption by the State Great Hural of Mongolia of the State Policy on Culture (para. 26) had been a positive step. As that decision was relatively recent, he hoped that the next country report would contain more data on how the policy had been implemented and what it had achieved.

31. The Committee recommended that the efforts by the mass media to disseminate information about the purposes and principles of human rights instruments be intensified, especially among ethnic groups, and that such information be translated into their languages. Dissemination should include Mongolia's periodic reports and the Committee's concluding observations.

32. Mr. NOBEL commended the Mongolian Government for its report, which had followed the Committee's guidelines. Mongolia was one of the few countries that did not appear in the most recent report of Amnesty International; the International Labour Organization (ILO) report on the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination also contained only positive remarks on that country.

33. Paragraph 2 said that a number of foreign citizens were "residing privately" in Mongolia. Were there other groups which were not residing privately there? He also drew attention to the surprisingly small number of residents from the large neighbouring countries, namely the Russian Federation and China. Was there any explanation for that? He raised the question because in the World Directory of Minorities of the Minority Rights Group International it was suggested that there might be some tension or animosity directed against Russians still in the country. Was there any substance to that assertion?

34. Mr. de GOUTTES said that, since nearly 10 years had passed since the consideration of the tenth report, Mongolia's fifteenth periodic report was rather brief and general in some areas; moreover, some of the information provided was more relevant to the work of the Human Rights Committee.

35. The otherwise interesting information on article 7 of the Criminal Code covered only one part of article 4 (a) of the Convention, whereas nothing was said about making racist violence and incitement to such acts, as well as activities promoting or financing racist activities or participation in organizations which promoted racial discrimination, a criminal offence. Paragraphs 6 and 18 asserted that there was no racial discrimination in Mongolia, which explained why the information was incomplete and no data had been provided on complaints, prosecution and judgments. But quite apart from the fact that the Committee did not usually accept the claim that there was no racial discrimination in a country, the Country Rapporteur had rightly asked whether the absence of complaints was not due to unawareness of their rights and the relevant legislation among the members of the many ethnic groups in Mongolia. He, too, stressed that comprehensive legislation against racism was necessary not only for punitive, but also for preventive and educational reasons.

36. He hoped that Mongolia would take steps to make the Convention known by publicizing its periodic reports and the Committee's concluding observations.

37. Mr. van BOVEN noted that Mongolia had been one of the first States parties to ratify the Convention. At the time, it had made a number of statements and reservations, which stemmed from that period. For example, upon ratification, the Mongolian People's Republic had stated that the provision in article 17 (1) of the Convention whereby a number of States were deprived of the opportunity to become parties to the Convention was of a discriminatory nature, and it had held that, in accordance with the principle of the sovereign equality of States, the Convention should be open to participation by all interested States without discrimination or restriction of any kind. As was well known, that statement had been inspired by the contested status of the German Democratic Republic, and he asked the Mongolian Government to consider withdrawing it. Mongolia had withdrawn a reservation that had been made in connection with article 22 of the Convention relating to the role of the International Court of Justice, and he hoped it would also consider withdrawing another statement which had likewise lost much of its meaning, namely the one made on 7 June 1984 relating to the question of the lawful representative Government of Cambodia.

38. He urged the Mongolian Government to consider ratifying the amendment to article 8 on financing the work of the Committee and to agree to make the declaration under article 14.

39. Mr. SHERIFIS, welcoming the resumption of the dialogue with the State party, hoped that Mongolia would report regularly in the future.

40. Concerning implementation of article 3, he was struck by the categorical statement in paragraph 6, one which the Committee had never accepted. To the credit of the State party, however, it was not asserted that there was therefore no need to legislate in accordance with article 4.

41. He welcomed the information on the wide range of activities undertaken in Mongolia to promote respect for human rights and inform the public about human rights instruments. Would the Committee's concluding observations be made known to the public at large? Was Mongolia considering the establishment of a national institution to facilitate the implementation of the Convention, as recommended by the Committee in its General Recommendation XVII?

42. The CHAIRMAN, speaking in his capacity as a member of the Committee and referring to a point made by Mr. van Boven about Mongolia's statement on article 17, said that, in his view, Mongolia had been right to make that statement and should be commended for it. Many countries had done so, because the wording in question was a restrictive formulation devised by some countries to prevent others from acceding to certain conventions.

43. Mr. Sherifis took the Chair.

44. Mr. TUMUR (Mongolia), responding to the Committee's questions and comments said that Mongolia was facing the economic difficulties common to former socialist countries and was doing its utmost to overcome them. His Government was very grateful for the Committee's support in the current situation.

45. Replying to questions about the Kazaks, he said that that minority group had its own province, secondary schools, television and radio stations and newspapers, and the Kazak people held their own elections. He himself was a member of the Bayad minority. Many members of Parliament were from minority groups.

46. Mongolia had experienced many changes in the 10 years since the submission of its previous report. Today, Kazaks and all other minorities had their own places of worship. For example, there were about 40 Christian churches.

47. Since the adoption of the new Constitution, no discrimination against minorities or disputes among minorities had been observed. Ownership rights for minorities were protected by law. Minorities had the right to work in all professions. Unemployment, which was increasing in Mongolia, affected all groups equally. The Constitution protected the rights of minorities with regard to language, culture and education.

48. Ms. Zou had referred to small businesses run by Chinese in Mongolia. It was worth noting that many foreigners had businesses in Mongolia; some of them were big companies.

49. He said the delegation would reply to the remaining questions at the next meeting.

50. The Mongolian delegation withdrew.

Draft concluding observations concerning the eleventh to thirteenth periodic reports of Austria (CERD/C/54/Misc.18/Rev.2, future CERD/C/../Add...)

51. Mr. NOBEL (Country Rapporteur) said he had incorporated a number of comments by members of the Committee in the revised version of the draft concluding observations. However, he had not deleted paragraphs 3 and 4, as suggested by Mr. Banton, because he felt it was appropriate to mention some positive aspects, particularly the establishment of a National Fund to compensate all victims of National Socialism.

Paragraphs 1 and 2

52. Paragraphs 1 and 2 were adopted.

Paragraph 3

53. Mr. SHAHI said that the term genocide was more than just a crime against humanity. The term also included crimes against peace, waging a war of aggression, war crimes, etc., and he suggested that that should be made clear.

54. Mr. DIACONU said there was a distinction between genocide, crimes against humanity and other violations of humanitarian law. He suggested deleting the words "against humanity" in the first sentence.

55. Mr. de GOUTTES said that genocide was the most serious of all crimes against humanity. He felt that the phrase "as a crime against humanity" was too weak and should be deleted.

56. Mr. van BOVEN, supported by Mr. NOBEL (Country Rapporteur) and Mr. de GOUTTES, proposed rewording the phrase to read: "the State party has condemned genocide as a crime under international law".

57. Paragraph 3, as amended, was adopted.

Paragraphs 4 to 7

58. Paragraphs 4 to 7 were adopted.

Paragraph 8

59. Mr. GARVALOV said that the first sentence belonged under the heading "Positive aspects".

60. Mr. van BOVEN proposed amalgamating the first two sentences by inserting "While the Committee" at the beginning of the first and amending the beginning of the second to read: "It is nevertheless concerned".

61. Paragraph 8, as amended, was adopted.

Paragraph 9

62. Mr. NOBEL (Country Rapporteur), responding to a question by Mr. VALENCIA RODRÍGUEZ, said that "work councils" in Austria were bodies in which management and staff discussed issues of joint concern. The fact that foreign employees were not eligible for participation in such bodies was an obstacle to their full integration.

63. Mr. DIACONU proposed that the last sentence should be detached as a separate paragraph.

64. Mr. de GOUTTES proposed adding the following phrase to the new paragraph: "and ethnic minorities, including the Roma".

65. Paragraph 9, as amended, was adopted.

Paragraph 10

66. Mr. van BOVEN wondered whether it was appropriate to comment on such details as the use of the word "sole" in the Federal Constitution Act.

67. Mr. NOBEL (Country Rapporteur) said that the inclusion of the word "sole" made it difficult for complainants against racism in legislative and administrative acts to litigate successfully. The provision read: "Legislation and administration must both refrain from making distinctions on the sole basis of race, skin, colour, descent, or national or ethnic origin."

68. Paragraph 10 was adopted.

Paragraph 11

69. Mr. GARVALOV proposed replacing "further information" in the second sentence by "more detailed information".

70. Paragraph 11, as amended, was adopted.

Paragraphs 12 to 17

71. Paragraphs 12 to 17 were adopted, subject to minor editorial changes in paragraphs 13, 15 and 16.

Paragraph 18

72. Mr. de GOUTTES regretted that the wording of paragraph 18 was so weak.

73. Mr. van BOVEN said he agreed entirely, but pointed out that it represented a compromise worked out by Mr. Aboul-Nasr and Mr. Banton, and in their absence he would be reluctant to propose any amendment.

74. The CHAIRMAN said that that wording had been used in relation to other States parties and that the question was one of principle and should not be debated now.

75. Paragraph 18 was adopted.

Paragraph 19

76. Paragraph 19 was adopted.

77. The draft concluding observations concerning the eleventh to thirteenth periodic reports of Austria as a whole, as amended, were adopted.

Draft concluding observations concerning the fifth to eighth periodic reports of Portugal (CERD/C/54/Misc.27/Rev.2, future CERD/C/.../Add...)

78. Mr. GARVALOV (Country Rapporteur) said that the draft concluding observations incorporated suggestions by various members.

Paragraph 1

79. Paragraph 1 was adopted.

Paragraph 2

80. Mr. SHAHI suggested that the expression "additional information" might be changed to "more detailed information".

81. After a discussion in which Mr. GARVALOV (Country Rapporteur), the CHAIRMAN, Mr. SHAHI and Mr. van BOVEN took part, over whether the two expressions differed in their connotations or were technically related to information under, for example, the prevention procedure, the CHAIRMAN suggested that the current wording should be retained, subject to a discussion of terminology and usage on another occasion.

82. Paragraph 2 was adopted.

Paragraphs 3 to 5

83. Paragraphs 3 to 5 were adopted.

Paragraph 6

84. Mr. van BOVEN, supported by Mr. YUTZIS, said that the word "Gypsy", which had been used in the country report without any apparent negative connotation, did have negative or offensive connotations in other countries. It was not necessary to adopt the State party's wording and he suggested using "Gypsy/Roma".

85. The CHAIRMAN, speaking as a member of the Committee, said that it was necessary to take the State party's sensitivities and preferences into account. Portugal had submitted its report in French, and had used the term "gitan", which appeared to have no negative connotations.

86. Mr. GARVALOV (Country Rapporteur), supported by Mr. de GOUTTES, suggested using "Roma/Gypsy" when speaking on behalf of the Committee, and "Gypsy" when quoting the State party.

87. Mr. NOBEL said that he suspected that in Portugal there might be no negative connotation. The Committee might not be aware of all the implications of the issue: some members of the community in question preferred "Gypsy", others preferred "Roma". He was concerned that the solution suggested - "Roma/Gypsy" - might lead people to believe the Committee was referring to a specific kind of Gypsy. He suggested using "Roma (Gypsies)".

88. Mr. SHAHI suggested replacing "interest" with "appreciation" in the first sentence.

89. Paragraph 6, as amended by Mr. Nobel and Mr. Shahi, was adopted.

Paragraph 7

90. Mr. YUTZIS suggested inserting the words "the situation of" after the word "regularize".

91. Paragraph 7, as amended, was adopted.

Paragraph 8

92. Paragraph 8 was adopted, subject to minor editorial changes.

The meeting rose at 6 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 1328th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 March 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Fifteenth periodic report of Mongolia (continued)

* The summary record of the closed part of the meeting appears as document CERD/C/SR.1328/Add.1.

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reports of Portugal (continued)

Draft concluding observations concerning the ninth and tenth periodi
reports of the Republic of Korea

ORGANIZATIONAL AND OTHER MATTERS

Preparation of summary records and press releases

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Fifteenth periodic report of Mongolia (CERD/C/338/Add.3) (continued)

1. At the invitation of the Chairman, the members of the delegation of Mongolia resumed their places at the Committee table.

2. The CHAIRMAN invited the Mongolian delegation to resume their replies to questions raised at the previous meeting.

3. Mr. TUMUR (Mongolia) said in reply to a question asked both by the Country Rapporteur and by other members of the Committee that there had been no change in the legal status of aliens.

4. The Constitution of Mongolia stipulated that international instruments ratified by that country had force of domestic law, and that that obviously applied to the International Convention on the Elimination of All Forms of Racial Discrimination. Not only were acts of discrimination punishable under various articles of the Mongolian Penal Code, but the State took specific measures to give effect to the provisions of the Convention.

5. For instance, the State ensured equal treatment before the courts by providing free legal aid to persons who did not speak the Mongolian language or could not afford counsel. As Chairman of the Parliamentary Sub-Committee on Human Rights, he himself had had occasion to help a foreign citizen accused of a crime and imprisoned to prepare his defence.

6. In Mongolia everyone had the right to medical care and social services. The State did everything in its power to provide medical services even in the most remote provinces and rural areas, despite the difficulties caused by staffing shortages. It had also taken steps to resolve the problem of street children, who numbered some 4,000 in Mongolia. Centres had been set up to accommodate, feed and educate such children.

7. With regard to the right to education, the relevant law had been amended in 1997 to bring it into line with those of other countries, developed and developing alike. Human rights courses had been incorporated into secondary education curricula.

8. Exercise of the right to freedom of opinion and expression had been facilitated recently by the privatization of radio broadcasting, television and the written press and, in 1995, the Government had adopted a new law on culture, science and copyright. Other democratic reforms had been introduced, and if in the past there had been cases of expulsion of Chinese citizens, that no longer occurred. However, if foreign nationals broke Mongolian law, they were held personally responsible, whether they were of Chinese, Russian or any other nationality.

9. Generally speaking, Mongolian society was very tolerant. Although he had worked as a law professor for 22 years, he had never heard of any case of racial discrimination being brought before the courts. When an organization of any kind advocated discrimination, it was not the organization itself that was punished, but the persons directly responsible for the acts in question. If a private individual suffered material damage of any kind, Mongolian civil law enabled him to obtain fair compensation.

10. In conclusion, he added that the Convention had been translated into the Mongolian language and was distributed free of charge throughout Mongolia.

11. He hoped that his additional explanations would satisfy the members of the Committee, whom he thanked for their comments and recommendations, of which due account would be taken in the next report.

12. With regard to national institutions, measures had already been taken to ensure the implementation of the Convention and the Mongolian delegation would take up the question of possible ways of further strengthening such measures with the relevant authorities.

13. The CHAIRMAN thanked the delegation of Mongolia for its cooperation and, in the absence of any further questions, invited the Country Rapporteur to conclude the discussion.

14. Ms. ZOU Deci (Country Rapporteur) thanked the delegation of Mongolia for its explanations, expressing the hope that all as yet unclarified points would be replied to in full in the next report. She also hoped that the next report would be submitted in accordance with the Committee's guidelines. Observing, however, that a 10-year period was a very long time, she would appreciate prompt action by the Mongolian Government to reform and supplement its legislation in order to bring it more closely into line with the provisions of the Convention, especially article 4 on the prohibition of incitement to racial hatred.

15. She further invited the Mongolian Government to make the Convention more widely known so as to familiarize the population as a whole with its provisions.

16. The CHAIRMAN, reiterating his thanks to the Mongolian delegation, said that the Committee had thus completed its consideration of the fifteenth periodic report of Mongolia.

17. The delegation of Mongolia withdrew.

The public meeting was suspended at 10.50 a.m. and resumed at 12.20 p.m.

Draft concluding observations concerning the fifth to eighth periodic reports of Portugal (continued) (CERD/C/54/Misc.27/Rev.2) (document distributed in the meeting, in English only)

18. The CHAIRMAN recalled that the Committee had completed its consideration of the first eight paragraphs of the text and invited members to consider section D, "Principal subjects of concern".

Paragraph 9

19. Mr. DIACONU observed that the section on subjects of concern was usually worded more neutrally. He suggested that the paragraph should read "Concerns were expressed" about a particular matter rather than saying that the Committee was concerned.

20. The CHAIRMAN said he took it that the other members of the Committee had no objection to that suggestion. He wondered why there was a reference to discrimination against Blacks and Gypsies only, whereas North Africans, especially Moroccans, were also subject to discrimination in Portugal.

21. Mr. SHERIFIS pointed out that there had been a long discussion on that paragraph the previous day and that the members had agreed that the term Roma should be used instead of Gypsies.

22. Mr. GARVALOV confirmed Mr. Sherifis' comment but stressed that the Committee was compelled to abide by the terms used by the State party to describe certain minorities. If Portugal spoke of Gypsies, the Committee could not take it upon itself to replace that term by Roma. That being said, a possibility would be to say Roma, followed by the word Gypsies in brackets.

23. The CHAIRMAN suggested that the Committee should not confine itself to referring to discrimination specifically against Blacks and Roma (Gypsies), but should add immigrants and foreigners to those two categories, as in paragraph 11. The paragraph would thus refer to discrimination (...) against Blacks and Roma (Gypsies) and against immigrants and foreigners.

24. Paragraph 9, as amended, was adopted.

Paragraph 10

25. Mr. DIACONU suggested that the wording "concerns were also expressed about ..." should likewise be adopted for paragraph 10.

26. Paragraph 10, as amended, was adopted.

Paragraph 11

27. Mr. DIACONU suggested that the wording of the paragraph should be amended along the lines of paragraph 9, stating that "there is an apprehension concerning" the de facto enjoyment, instead of saying that the Committee remained apprehensive.

28. Mr. SHERIFIS said that the term Roma (Gypsies) should be used, as in paragraph 9.

29. Paragraph 11, as amended, was adopted.

Paragraph 12

30. Mr. DIACONU suggested that an active, rather than a passive, verbal construction should be used. The paragraph would thus begin: "The Committee recommends that further measures be taken ...".

31. Paragraph 12, as amended, was adopted.

Paragraph 13

32. Mr. GARVALOV suggested that, as in previous paragraphs, immigrants and foreigners should be added after Blacks and Roma (Gypsies).

33. Paragraph 13, as amended, was adopted.

Paragraphs 14 to 19

34. Paragraphs 14 to 19 were adopted, with minor editorial changes.

35. The draft concluding observations concerning the fifth to eighth periodic reports of Portugal as a whole, as amended, were adopted.

Draft concluding observations concerning the ninth and tenth periodic reports of the Republic of Korea (CERD/C/54/Misc.24/Rev.2)

Paragraph 1

36. Paragraph 1 was adopted.

Paragraph 2

37. The CHAIRMAN suggested that it might be unnecessary to say that the Committee welcomed the report of the Republic of Korea.

38. Mr. van BOVEN suggested that the first part of the last sentence be deleted, so that the last sentence would begin: "The Committee commends the quality of the delegation's oral replies ...".

39. Paragraph 2, as amended, was adopted.

Paragraph 3

40. Mr. SHERIFIS said that the paragraph should be deleted since it referred to a category of persons not covered by the Convention, namely foreign workers in an irregular situation.

41. Mr. van BOVEN said that he did not object to the suggestion to delete the paragraph, but not for the reasons given by Mr. Sherifis.

42. Paragraph 3 was deleted.

Paragraphs 4 to 13

43. Paragraphs 4 to 13 were adopted.

44. The CHAIRMAN said that the Committee would resume its consideration of the draft concluding observations at its following meeting.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Preparation of summary records and press releases

45. The CHAIRMAN said he wished personally to express his gratitude to the précis-writers and press officers for working so diligently and rapidly, as a result of which the summary records, in particular, were available promptly to Committee members, giving them time to make any changes they considered necessary. He requested that his comment be placed on record.

The meeting rose at 1.05 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1329th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 March 1999, at 3 p.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 3.15 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Sudan

1. At the invitation of the Chairman, Mr. Ibrahim, Mr. Idris, Mr. Alazreg and Mr. Abdu (Sudan) took places at the Committee table.

2. Mr. IBRAHIM (Sudan) said that his Government abided by the universality and indivisibility of all human rights as enshrined in the Universal Declaration of Human Rights. He assured the Committee of his delegation's willingness to cooperate in any way possible.

3. Mr. IDRIS (Sudan) said that his delegation welcomed the opportunity to acquaint the Committee with important constitutional, political and economic developments in the Sudan in the recent past. His Government was finalizing the ninth, tenth and eleventh periodic reports, which it hoped to submit in the near future.

4. The Sudan, the largest country in Africa, had 572 tribes with different languages, dialects and ethnic backgrounds which had generally co-existed peacefully. Since 1955 the country had witnessed an internal armed conflict between rebels from the south and Government forces, but race relations were for the most part harmonious. Rather than seeking refuge in neighbouring countries, most of those fleeing the armed conflict in the south had sought sanctuary in the north, testifying to the fact that the causes of the conflict were not ethnic, racial or religious in nature.

5. Since the Sudan's previous periodic report, a Peace Agreement had been signed in April 1997 between the Government and seven of the eight rebel factions in the south and another had been concluded for the Nuba Mountains; a federal, decentralized system of power had taken root; a Constitution with a Bill of Rights and Freedoms had come into force in July 1998, accompanying laws had been enacted and other legislation was under review; and the Government had accepted, in negotiations with the remaining rebel faction in the south, the one led by John Garang, the right to self-determination for the people of the south, as already embodied in the Peace Agreement. Another round of negotiations was to be held in April in Nairobi.

6. Prior to the Peace Agreement, a Political Charter had been signed, guaranteeing the right to self-determination for the people of the south following a referendum, and calling for the introduction of a federal system, recognition of cultural diversity, freedom of religion and belief, and equitable sharing of power and national wealth. The subsequent Peace Agreement had reasserted the general principles contained in the Political Charter, including special status for the south during a four-year interim period, to be followed by a referendum on self-determination monitored by international observers.

7. Article 2 (1) of the Peace Agreement stipulated that the Sudan was a multiracial, multi-ethnic, multicultural and multireligious society, that the

basis of rights and duties was citizenship and that all Sudanese were to share equally in all aspects of life and political responsibilities. The Agreement made provision for the fundamental rights and freedoms enshrined in the International Bill of Human Rights and recognized by and guaranteed under the international conventions and protocols ratified by the Government of the Sudan. It defined power-sharing through the creation of a Coordinating Council for Southern States, which was composed entirely of persons from southern Sudan and had wide-ranging powers, including in the area of cultural development. The planned referendum would have two options: secession or unity. The Agreement called on the Government to endeavour to develop local and international languages, and it contained a table stipulating that 75 per cent of resources found in the States were to be allocated for the development and running of those States.

8. On 20 July 1997, a similar Agreement had been signed between the Government and the Central Committee of the Sudan People's Liberation Army (SPLA) - United Nuba Mountains Section containing a bill of rights, giving the area a special development status and promoting its local cultures and languages and self-rule.

9. He then reviewed the content of some of the articles of the Constitution which had come into force in July 1998 after being approved in a referendum: decentralization of authority (art. 2); Arabic as the official language, but provision for the development of other languages (art. 3); conciliation and national unity so as to prevent religious, partisan and sectarian fanaticism and eradicate racism (art. 6); and provision of decent living standards and just distribution of national income (art. 11). Articles 20 to 34 contained the Bill of Rights and Freedoms. They covered the freedom and sanctity of life, the right to equality, the sanctity of nationality, freedom of movement, freedom of creed and worship, freedom of thought and expression, freedom of association and organization, sanctity of cultural communities, sanctity of property, inviolability of communication and privacy and immunity against detention. Pursuant to article 46 of the Constitution, any person could contest before the Constitutional Court any violations of freedoms or sanctities, whether those were Presidential acts or acts by any other State agent. Article 132 on states of emergency stipulated that any suspension of the rights and freedoms in the Constitution must not restrict the right to freedom from slavery or torture and the right to be protected from discrimination on the basis of race, sex or religious creed.

10. The Constitutional Court Act 1998, the Organization of Political Associations Act 1998, the General Elections Act 1998, the Local Government Act 1998 and the Public Grievances and Corrections Board Act 1998 had been enacted pursuant to the Constitution. A review was under way of legislation on length of detention, which was to be changed to 72 hours, and the right of the detained to judicial review and to be brought before a judge as soon as possible. The judiciary also had the power to inspect detention centres to ascertain whether detainees were treated properly and enjoyed due process of law.

11. The Constitution and the Peace Agreement required the State to secure adequate advancement for minorities and to protect certain racial and ethnic groups (as could be seen in the Nuba Mountains Peace Agreement), thereby

complying with articles 1.4 and 2.2 of the Convention. Article 64 of the Sudanese Penal Code of 1991 prohibited and punished any incitement of hatred, as required by article 4 of the Convention. The provisions of article 5 of the Convention were embodied in the Constitution and the Peace Agreements. Article 34 of the Constitution guaranteed the remedies for citizens set out in article 6 of the Convention.

12. The armed conflict in the Sudan had to a great extent been driven by socio-economic factors. That was clear from the fact that the fighting parties included Muslims and Christians, and southerners and northerners on each side, the hostilities having erupted long before Shariah laws had been introduced. The south itself had never been subject to Shariah laws, because article 5 (3) of the Penal Code had exempted that part of the country from their application, and the Government had introduced a federal system and special status for the south to address socio-economic disparities.

13. Seeking to mitigate the impact of the conflict on the civilian population, the Government had repeatedly called for a comprehensive and indefinite ceasefire in the south for humanitarian reasons and a solution to the conflict at the negotiating table; it had encouraged tribal agreements, and it was to be hoped that the latest such agreement, namely between the Dinka and the Nuer, would lead to the acceptance by the rebels of a comprehensive ceasefire in the south; it had worked to reach a reconciliation between the tribes that had clashed in Western Darfur; it had agreed to open food corridors in both Government- and rebel-held areas through Operation Lifeline Sudan (OLS); and, as recently as 1998, it had granted unlimited access to food airlifting to areas under rebel control.

14. The Government continued to advocate the establishment of permanent peace, and believed that the continuation of armed hostilities was the main reason for the suffering of civilians in the conflict zones. To cite an example, the famine that had struck the people of Bahr-el-Ghazal in the first half of 1998 had been the result of the defection of Commander Kerbuno, one of the signatories of the 1997 Peace Agreements, who had attempted, together with the SPLA, to occupy the capital of Bahr-el-Ghazal, in January 1998. The ensuing havoc had led to the displacement of the population and the famine. Despite security threats, the Government had offered unlimited access to OLS, and its efforts to assist in airlifting relief were acknowledged by the international community.

15. The Government was taking seriously the disturbing allegations which had recently surfaced about slavery in the conflict regions of northern Bahr-el-Ghazal. In 1996, a committee had been established by the Advisory Council for Human Rights to investigate allegations of involuntary disappearances and forms of slavery, but had not found any credible evidence. The committee was pursuing its work and the Government had just set up a Ministerial Committee to follow up the matter. The Advisory Council had sought the help of the United Nations Children's Fund (UNICEF) in the investigation. At the Government's invitation, the Working Group on Contemporary Forms of Slavery had investigated those allegations three years previously. Lord McNair of the British House of Lords had also visited the areas where slavery was said to be taking place and had produced a report challenging those assertions.

16. His Government expressed indignation at the trafficking in people by certain NGOs, which had been condemned by many, including UNICEF. Acts such as personal abduction, kidnapping and unlawful confinement were prohibited by articles 161 to 164 of the Penal Code.

17. With regard to the Nuba Mountains, the 1997 Peace Agreement was based on the Nairobi Declaration of Principles of 1996, recognizing the just case of the Nuba Mountains inhabitants and the need for the social development of the area, fair power-sharing and a just system of government and justice, a fair division of wealth and rehabilitation, the need to bring the war to an end and restore peace and provision for the establishment of a local-government mechanism for the transition period.

18. At the end of January 1999, Western Darfur had been the scene of clashes between Arab herdsmen and Masalit farmers, when the former had trespassed on the farmlands of the latter. Following the killing of members of a conciliation committee and reprisals by the herdsmen, a government delegation had visited the area to assess the situation, and the President of the Republic had declared a state of emergency there and appointed a special representative to restore security and stability. Subsequent meetings between the two tribes had been convened under the auspices of the Government and a reconciliation conference had taken place. The President had set up a commission to investigate those unfortunate incidents. Additional forces had been sent to the area to curb any further aggression and the situation was currently calm and under control.

19. Ms. McDOUGALL (Country Rapporteur), thanking the delegation of the Sudan for the additional information it had provided on the implementation of the Convention and on recent developments in the ongoing civil conflict, said that in August 1998, the Committee had expressed concern over persistent reports about the deteriorating human rights situation in the Sudan. Since the 16-year war in the Sudan had a significant ethnic and racial character and it was estimated that as many as 1.9 million Sudanese had died since 1983 from war-related causes, the Committee clearly had an obligation to raise concerns over the ethnic roots of the conflict.

20. The Committee welcomed reports indicating agreement by all sides to the conflict to extend the ceasefire in the south and the Government's apparent willingness to discuss the possibility of increased autonomy or even secession for the south.

21. As an initial point, she asked about the availability of demographic data on the Sudan. The information which the Sudanese authorities had provided to the Committee were not broken down by ethnicity. In 1994, the Committee had noted that the results of the 1993 census would be of crucial importance in assessing the apparent dichotomy in the Sudan between legal provisions and their actual application and the continuing social and economic disparities between the northern and southern populations, which might constitute de facto discrimination (Report of the Committee, A/49/18, para. 471).

22. Any demographic information on the Sudan must be understood within a broader, complex set of ethnic associations between those who identified with

a northern Arab culture and those who identified with a southern, African-focused culture; also, as there was a perceived close identification between Islam and Arabism, the threat that the Shariah was to be imposed in the south in 1983 had helped re-ignite and radicalize the war. When the Committee had considered the Sudan on the previous occasion, its current Chairman, Mr. Aboul-Nasr, had correctly noted that great caution was needed when discussing the complex association between ethnic and religious identities within the context of Convention obligations. She agreed, but according to numerous academic sources, credible non-governmental organizations (NGOs), and human rights organizations, it also appeared evident that the Sudan presented a unique situation in which questions of race, ethnicity, religion and culture were in fact closely intertwined and that in many respects the ongoing civil conflict in the Sudan was founded on that complex interrelationship. The Committee would like to hear the Sudanese delegation's observations on that point, including its assessment of the general importance of ethnicity in the conflict in the south.

23. Ethnic tensions between the north and the south had clearly fuelled the conflict, and she therefore sought the delegation's reaction to reports that Government-supported commentaries in Khartoum had accused Government opponents of "Negro racism" and that many northerners still used the term abid, or slaves when referring to southerners.

24. Both Government forces and armed rebel groups under the SPLA had participated in grave violations of humanitarian law, and, although not always ethnically motivated, those abuses had occurred in a climate of ethnic conflict. In the previous year alone, numerous reports had indicated that both parties to the conflict must be held responsible for attacks on civilian populations, torture, disappearances, summary executions, malicious and militarily unjustified destruction of civilian property and the diversion of badly needed relief supplies, there were also reports that the Government had regularly bombed non-military targets, including relief centres and also hospitals run by aid agencies in the south. Grave human rights abuses had also reportedly been committed by the Government in regions not involved in the conflict.

25. Credible reports suggested that the Government had forcibly recruited child soldiers and that Government-supported militia had regularly enslaved women and children captured in the conflict. A report just released by Human Rights Watch stated that the contemporary form of slavery practised in the Sudan in the context of the conflict was conducted almost entirely by Government-backed and armed militia of the Baggara tribe in the western Sudan, that it was directed mostly at the civilian Dinka population of the southern region, and that the purpose in arming that tribal militia seemed to be to conduct a low-cost counterinsurgency war against the Sudan People's Liberation Movement/Army (SPLM/A), which was identified with the Dinka tribe of the southern Sudan.

26. The Committee expressed great concern over the ongoing human rights violations in the south and the allegations of slavery. Reports by the Government's Advisory Council for Human Rights, a member of the British House of Lords and a British NGO, had all concluded that such allegations were unfounded, and in her opinion, other NGOs had exaggerated and exploited

information about slavery-like practices in the Sudan. But the manner in which the Government dismissed the allegation of slavery as mere hostage-taking by independent tribal groups operating in the south belied the seriousness of the abuses and the question of State involvement and responsibility. Credible reports suggested, in particular, that women and children abducted in the south who had been forcibly engaged as household servants in the north, where they might be physically and sexually abused, denied contact with their families, forced to take Arabic names and coerced into converting to Islam were in fact being treated as slaves. UNICEF had just issued a report stating that thousands of Sudanese were being kept as slaves, most of them Christian women and children abducted by Muslim armed militia based in Government-controlled parts of the country. There had also been reports that the Government forces had backed such activities by transporting tribal militia into the region to support slave raids. The Committee asked the Sudanese delegation to comment on all those reports.

27. The Committee welcomed the Government's recent announcement that it intended to prosecute those engaged in the slave trade and urge the Sudanese population to report incidents of slavery. Had any such cases been investigated or prosecuted? Was any action planned against members of the armed forces found to have been giving aid or cover to tribal militia involved in such activities? Could the delegation describe any specific steps taken, including public information campaigns, to encourage citizens to report such acts to the authorities? Would the Government be cooperating with the UNICEF four-point plan to bring about the release of the slave population? Those questions were pertinent to the State party's obligations under articles 2, 4, 5 and 6 of the Convention.

28. The civil war had been largely responsible for major famines in southern and central Sudan. The United Nations estimated that 2.4 million people in the south, or about 10 per cent of the total population of the Sudan, were currently at risk of famine. Although a ban imposed by the Government in March 1998 on United Nations relief flights under Operation Lifeline Sudan (OLS) had been lifted in response to international criticism, mortality rates were expected to remain unacceptably high for some time. According to the United Nations, widows and internally displaced communities, including ethnic minority communities, generally had less access to food relief than other groups and were more susceptible to famine. She asked the delegation for additional information on steps taken by the Government to facilitate the work of OLS and the distribution of relief supplies to internally displaced persons.

29. By all accounts, the situation in the geographically isolated Nuba Mountains region, which had traditionally been inhabited by 52 different ethnic groups, remained particularly severe despite the Peace Agreement mentioned by the delegation. The Committee had previously expressed concern that the Government's policies in the region amounted to a programme of ethnic cleansing. At least one prominent NGO had characterized its actions as genocide. The Government was reportedly attempting to starve civilians out of rebel-held areas and into its "peace villages", where conditions were often life-threatening. The situation in the Nuba Mountains clearly raised significant concerns under the Convention. She would appreciate an official

indication of the Government's willingness to give independent human rights monitors access to the region and asked the delegation to provide an overview of the Government's policies towards the region.

30. She asked the delegation to comment, in the light of articles 2 and 4 of the Convention, on reports that the State party had pursued a policy of arming ethnic militias in an attempt to promote internal ethnic rivalries in southern Sudan, thereby gaining allies in the civil war. There had recently been similar reports concerning the Darfur region. According to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan (E/CN.4/1997/58), inter-tribal clashes had intensified following an administrative reorganization of the federal structure in the south. Some newly appointed governors had reportedly favoured nomadic Arab tribes over indigenous inhabitants of new southern States by promising to transfer land to Arab settlers. The State party had informed the Committee in 1994 that each southern State had a governor of southern origin but, according to the Special Rapporteur, the governors in at least one region (Western Darfur), where three new states had been created, usually originated from other parts of the Sudan and were nominated by the federal authorities in Khartoum.

31. The status of international human rights and other treaties under the new constitutional framework was unclear and she asked the delegation to clarify the situation. The fact that the new Constitution contained a number of important human rights provisions was a welcome development. There had been some criticism of the constitutional adoption process, including reports that as many as 100 lawyers, trade unionists and other activists had been arrested for questioning the process. That vast section of the population of the south had been unable to participate in the referendum on account of the civil war raised questions, in the context of article 5 (c) of the Convention, about the political legitimacy of the Constitution. She asked for further information about its application in the south.

32. She asked for confirmation that the Shariah was applied only to Muslims and that southern Sudanese living in the north were not subject to the Islamic Criminal Code. Would the exemption of the 10 southern States from Shariah-based aspects of criminal law allow for future application of the Shariah if southern State assemblies so decided? The perception in the south that the Shariah was already being applied or would be applied in the near future seemed to have played a significant role in fuelling the ongoing civil conflict. She wished to know what steps the Government was taking to dispel those concerns. Despite formal claims that Islamic law was not being applied to non-Muslims and the broad guarantees contained in the new Constitution, including the right to freedom of religion, the Government had clearly sought to impose its interpretation of Islamic law on some non-Muslim communities.

33. While Muslims were entitled under Sudanese law to adopt either Muslim or non-Muslim children, including abandoned children, non-Muslims could only legally adopt non-Muslim children and were prohibited from adopting abandoned children. In a country with an exceptionally large number of displaced and abandoned children, those laws, which were applied along ethnic divides on a de facto discriminatory basis, could have extremely severe consequences in the south.

34. The CHAIRMAN, speaking in his personal capacity, said that, as a Muslim, he regretted the tone of the Country Rapporteur's comments on the Shariah, which conveyed the impression that application of the Shariah to others, even in a judicial context, was a crime that must be denounced. He advised her to read about the Shariah and its application in individual countries. In any case, the delegation had given assurances that the Shariah would not be applied in the south.

35. The Committee had agreed that the source of reports and allegations should always been mentioned. The Country Rapporteur had not cited her sources in all cases. In his view, reports by some NGOs lacked credibility.

36. Ms. McDOUGALL (Country Rapporteur) said that the Chairman had mistaken both the intention and the tone of her comments. She had stated very carefully, referring to the Chairman's own remarks, that she was speaking only of the Sudan. The unique way in which issues of religion, culture and ethnicity were intertwined in the Sudan created the context in which issues relating to ethnic communities and their relationship to religion were addressed. She had in no way questioned Islam but examined the perceptions of Islamic law that prevailed in certain ethnic communities.

37. With regard to sources, in the absence of a State party report, she had relied more heavily than usual on NGO material and had in many cases indicated the source. Where she had not, she was willing to remedy the omission. At all events, she was not indiscriminate in her choice of sources and had even discounted the reports of organizations that had, in her view, exaggerated or exploited reports of slavery in the Sudan.

38. Mrs. SADIQ ALI, welcoming the resumption of the Committee's dialogue with the Sudan, said that the April 1997 Peace Agreement struck a hopeful note, particularly the provision according a special status to southern Sudan. If peace was restored, a country once considered the breadbasket of Africa could embark on the path of development and the enormous problem of internally displaced persons could be tackled. However, the Peace Agreement had not been signed by the Sudan People's Liberation Army (SPLA), which had recently scored significant military successes. The SPLA leader, John Garang, firmly believed that peace could not be concluded with the present regime in Khartoum. However, the current direct talks, while unpromising, were still proceeding. In the negotiations under the auspices of the Intergovernmental Authority on Development (IGAD), three SPLA demands remained outstanding: insistence on a confederal rather than a federal relationship between north and south; a secular State not subject to Islamic law; and adjustment of the northern boundary of southern Sudan to include African areas and oil resources.

39. According to United Nations sources, Sudanese law did not recognize the right to use local languages in official communications or administrative or court proceedings in the Sudan. She wished to know why minorities had been deprived of that right. Moreover, according to the Human Rights Monitor very few non-Muslims occupied judicial positions at any level. Could that be attributed to a lack of education or training?

40. Mr. de GOUTTES complimented the Country Rapporteur on her report, which had been particularly useful in the absence of a report by the State party.

41. When the Committee had considered the Sudan's report in 1994, it had mentioned the following principal subjects of concern: continuing economic and social disparities between the northern and southern populations which might constitute de facto discrimination and obstacles to the resolution of the ongoing conflict; the large number of Sudanese who had become homeless as a result of the conflict and were either internally displaced or living as refugees outside the country; obstacles to the enjoyment of fundamental freedoms, including the right to choose one's religion; and the lack of legal guarantees of the independence of the judiciary. Many of those problems persisted. However, he welcomed the conclusion of the Peace Agreement in 1997, under which the south was to exercise its right of self-determination through a referendum, and the establishment of a federal system with guarantees of respect for human rights, particularly the right to freedom of religion and opinion. The new Constitution enshrined those rights but article 132 maintained the option of declaring a state of emergency under which a large number of rights could be suspended. Had the Government invoked that provision or did it plan to do so?

42. The Commission on Human Rights, in resolution 1998/67, had expressed its deep concern at continued serious human rights violations in the Sudan, including enforced and involuntary disappearances, violations of the rights of women and children, slavery and slavery-like practices, forced displacement of persons and denial of the freedoms of religion, expression and peaceful assembly. He asked the delegation to comment on those allegations.

43. In a report published in May 1998, Amnesty International had provided details of human rights violations committed against displaced persons in the Sudan, who numbered about 4.5 million. He would appreciate information on the current situation of the persons concerned.

44. Despite official denials of slavery, Amnesty International stated in its 1998 report that the Vice-Chairman of the Human Rights Commission of the National Assembly in the Sudan had admitted in July 1998 that children had been kidnapped in the north of the Bahr-al-Ghazal region and consigned to slavery. He asked the delegation to comment on the report.

45. With regard to the famine in Bahr-el-Ghazal, he noted with interest that the Government had undertaken to call a ceasefire in the south on humanitarian grounds and to open up corridors in the context of Operation Lifeline Sudan for the transport of food supplies for the civilian population in areas controlled both by the Government and the rebels. What was the current situation of the famine-stricken communities and how far had the relief operation progressed?

46. Mr. van BOVEN associated himself with the points made by the Country Rapporteur and other speakers.

47. In its concluding observations on the previous report, the Committee had underlined the crucial area of the administration of justice with regard to the elimination of racial discrimination and recommended that police power be curtailed and that judges decide on the legality of detainment within a reasonable time after the arrest or taking into custody of a suspect. In that connection, the Committee had pointed out that the State party was under an

obligation to ensure that law enforcement officials were fully responsible for adhering to the requirements of the Convention and that excesses of the security forces must be punished. He asked the delegation to comment on those points.

48. According to the delegation, the Sudan had invited the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to visit the country in order to investigate the situation. He thought such a visit would be useful but the Working Group's resources were unfortunately very limited and it was unlikely to be able to take up such an invitation. He was interested in hearing whether there had been any follow-up.

49. Mr. GARVALOV commended the oral presentation, which had answered many questions and the State party's explicit acknowledgement that the Sudan was a multiracial, multicultural, multireligious and multi-ethnic society. He observed that, according to the Charter of the United Nations and the two international Covenants, the right to self-determination, referred to in the delegation's oral presentation, was a right reserved to peoples, allowing them to decide for themselves whether to seek independence, a form of autonomy or secession. If the referendum in the southern Sudan decided on independence, would that decision be recognized? He would welcome clarification of that point, especially as the southern Sudanese were, as he understood it, ethnically different from northerners.

50. That both the Constitution and the Nuba Mountains Peace Agreement obliged the State to secure adequate advancement for minorities and further protection of certain racial and ethnic groups he was consistent with articles 1.4 and 2.2 of the Convention.

51. Mr. IBRAHIM (Sudan) said that the Sudan's commitment to human rights and the Convention in particular was not simply a matter of meeting its international obligations but was also a religious conviction. The Sudan had nothing to hide and would not deny any errors. His Government had courageously tried to tackle the root causes of the war and sought a lay-term peace agreement. It had convened a number of conferences to discuss economic and social problems, the Constitution and peace. That process had resulted in drastic change and made it possible to look at the fair distribution of wealth and power. It was not easy for any Government to contemplate self-determination for a portion of its territory, but peace was the paramount consideration.

52. The federal system had been established because centralized rule was no longer in anybody's interests. Out of 26 States, 10 were to be found in the south, and the elected state governors and ministers were from the south. They could make a contribution to solving the south's problems. The April 1997 Agreement according the right to self-determination had been signed by all the fighting factions except the largest one, and many groups, including European Union countries, had been working together since then to try to persuade that group to sign. He was pleased to be able to say that, on 7 March 1999, the largest group of tribes in the southern Sudan, the Nuer and the Dinka, had concluded a ceasefire agreement covering the whole of the Sudan, in preparation for the negotiations planned for April in Nairobi.

53. The Sudan was trying to move in the right direction and it would welcome objective criticism that would enable it to improve. It had already taken courageous steps to address the allegations made against it: the new Constitution included, for the first time, a Bill of Rights; a claims procedure had been instituted; a multiparty electoral system had been introduced; and, with the development of press freedom, there were 15 daily newspapers, only one of which was supported by the Government.

54. By 30 June, the Sudan would be self-sufficient in oil, thanks to assistance from various countries. Oil revenues should make it possible to develop the infrastructure throughout the Sudan in a context of peace.

55. With regard to the nature of the war, he said it had started in 1955, before independence, and its causes had never been clear. Whether the people of the southern Sudan wanted to live together with or apart from the north, their decision would be respected.

56. In reply to requests for demographic information, he said that in 1993 there had not been the computer capability to provide such data, but he undertook to obtain whatever information was available. With regard to the use of the term "Negroes", persons using such terms could be punished under the Penal Code.

57. In response to the comment about the bombing of a hospital, he said that it was impossible to control or investigate everything that happened during a war, but it was certainly not government policy to attack civilians or bomb hospitals. With regard to the enlistment of children, the law strictly prohibited the enlistment of anyone under the age of 18, and the Attorney-General would take action against anyone shown to be doing so.

58. On the question of slavery, a special rapporteur from UNICEF had been allowed to visit every region where slavery was alleged to take place. There was also a problem of definition: what many called "slavery", the Sudanese called "abduction". He explained that, in some jungle regions, where there was no recognized right of way for nomadic herdsmen, they sometimes trespassed on farm land, whereupon the farmers might take some of their cattle and the herdsmen might in revenge abduct some of the farmers' children. In such a situation, the elders then came together to mediate and compensation would be paid. Such disputes were common in regions of Africa where there were nomads and his Government encouraged such mediation and sometimes gave financial support for compensation. What was needed was technical assistance from, for example, the Commission on Human Rights, as Sudan had been requesting for three years, to help with communications and mediation processes of that kind.

59. With regard to the famine, he recalled that the United Nations Secretary-General had expressed his appreciation to Sudan for providing access for food relief to Bahr-el-Ghazal. The number of flights per day had increased from 4 to 30. In addition, his Government had donated 155,000 tons of food and donations had been raised from Sudanese living outside the country and even from the northern States.

60. The Nuba Mountains Peace Agreement had come about as a result of the Government's recognition that the developmental needs of the people of that

area were different from those of the southern Sudanese. The Government was now following up the Agreement by establishing a Coordinating Council. Referring to government-supported militia, he said that armed ethnic militias had originally been introduced in the mid-1980s by the then Prime Minister, now an opposition leader. The new Government had realized that they would not help peace in the Sudan and had begun training civilian defence groups, which were now well trained and under military guidance.

61. He denied that there was any favouring of Arabs over non-Arabs in any authority or official body. It was prohibited under both the law and the Constitution and offenders could be prosecuted. Referring to the alleged arrest of 100 lawyers, he said that there were not even 100 lawyers in Khartoum. The arrest to which Ms. McDougall had referred might have been one that had occurred in connection with elections to the Bar. The draft Constitution had been widely distributed within and outside the country and had received extensive support.

62. Referring to Mr. de Gouttes' point about economic disparities, he said that one of the objectives of the new Constitution was the fair distribution of wealth among the states of the Federation. After studying various countries' federal systems, the Government had arrived at a formula whereby, if one state had oil or mineral wealth, 40 per cent of the wealth would go to that state and 25 per cent to the neighbouring states. If the state was in the south, it would take 75 per cent and 25 per cent would go to the centre.

63. With regard to refugees and displaced persons, he asked how Sudan, as a country that had received 2.5 million refugees from Ethiopia and Eritrea during the conflict there and had given many of them free education, health services and employment, could fail to be equally generous to its own people displaced as a result of civil war, drought or floods. Moreover, the revenue collected from a compulsory Islamic tax (zakat) was distributed to the poor, the needy and refugees, regardless of religion or race. The zakat administration had resources similar to those of the Ministry of Finance itself, and they were being directed towards social security and family projects.

64. Forcible conversion was contrary to Islam, the Koran, the Constitution and the law. There was complete freedom of religious conviction.

65. The independence of the Sudan's judiciary had survived decades of successive regimes. Even members of the security forces, were brought before the courts in the Sudan. An example had occurred in 1996, when three security officers convicted of killing three civilians had been condemned to death, a sentence that had been carried out. He undertook to provide the Committee with a copy of the new law on the judiciary.

66. Thanks largely to the rapid response of the international community, the famine in Bahr-el-Ghazal was over. The World Food Programme (WFP) had assured the Government there was enough food for the area. The Sudan, as a country rich in forest, grain and livestock, could support itself and half of Africa without outside help, if only peace could be achieved.

67. With reference to Mr. van Boven's point concerning arrests by the security forces, he said that an Advisory Council for Human Rights had been set up in 1995, consisting mainly of representatives of NGOs, and that it had recommended that the Government should release all political prisoners under the new Constitution and Bill of Rights. All 41 political prisoners, who had been in prison for only four months at the most, had subsequently been released. There were no longer any political prisoners in the country. Should there be any, their rights would be respected under the Constitution and the law.

68. Mr. IDRIS (Sudan), replying to Mr. Garvalov's question about respect for the right to self-determination, referred him to article 8 of chapter 7 of the Peace Agreement, under which the parties agreed to accept, abide by and implement in good faith the result of the referendum. Moreover, the Agreement was constitutionally binding on the Government.

69. With regard to curtailment of police power and the power of the judiciary, the National Security Act and the Security Procedures Act were under review to limit the time of detention. The Constitution prohibited torture and other forms of degrading treatment. The Judiciary Act was under review, so that detainees would have the right to be brought before a judge within 72 hours, and judges would have the right to inspect detention centres at any time to ensure that detainees were held in accordance with the law.

70. The commitment to a comprehensive ceasefire was a government initiative, as was the opening up of corridors, through Operation Lifeline Sudan (OLS), so that food and relief could reach the rebel-held areas, and the provisions had been implemented under the supervision of the United Nations Office for the Coordination of Humanitarian Affairs (OCHA). Regarding article 132 of the Constitution and the possibility of derogation of certain constitutional freedoms during the state of emergency and the freezing of the Bill of Rights, certain provisions of the Bill of Rights, including the prohibitions on discrimination, torture and slavery, were considered unassailable and could not be infringed, even under a state of emergency; other aspects could be curtailed in the event of threats to national security.

71. Courts allowed the use of local minority languages if the accused, defendants or plaintiffs did not understand other languages; and the courts were obliged to provide interpreters. The Constitution and the Nuba Mountains Peace Agreement also obliged the State to promote local cultures and languages; that was done inter alia, by including them in the school curriculum in the individual states.

72. Like most observers, the Government was aware of the adverse effects of continued armed conflict on the enjoyment of human rights, and it had always called for an indefinite and unconditional ceasefire and a negotiated solution. Everyone should share its willingness and strong resolve to find a peaceful solution.

73. It was not true that the Government was rejecting any action to restore access to the Nuba Mountains; it had in fact been in contact with OCHA on that

very question. It had already given the green light to Operation Lifeline Sudan in the south, where security threats were more acute; there was no justification for assuming they would do otherwise in the Nuba Mountains.

74. Mr. SHAHI said that it emerged from the impressive presentation that the Government had taken far-reaching steps to resolve the long-standing civil war and the problems of a multiracial and multi-ethnic society; he wished it continued success. The referendum on self-determination was a welcome development, and he was glad to hear that the Government would abide by its results.

75. Ms. McDOUGALL (Country Rapporteur), summing up, said it had been an important exchange of views. The members of the Committee all welcomed the new Constitution and the impressive Bill of Rights. They welcomed the provisions of the Peace Agreements and the vision being developed to create equality within Sudanese society between north and south and in wealth distribution, and to ensure freedom of religion and harmonious relations among different cultures and ethnic groups. They looked forward to seeing that vision and those legal documents effectively implemented. They hoped that the ceasefire would hold and that all parties would agree on terms of peace, because the citizens of Sudan deserved peace.

76. The CHAIRMAN commended the Country Rapporteur's incisive analysis in the absence of a written government report. She had surely spoken for every member of the Committee in her summing up. He thanked the members of the delegation for their frank and clear answers, and hoped to receive fuller information in the next report. The Committee would closely follow the implementation of all the reforms and agreements mentioned. The Sudan's efforts might set an example to other areas experiencing civil conflict.

77. The delegation of the Sudan withdrew.

Draft concluding observations concerning the ninth and tenth periodic reports of the Republic of Korea (CERD/C/54/Misc.24/Rev.2, future CERD/C/304/Add...)

78. The CHAIRMAN invited the Committee to resume its consideration of the draft concluding observations concerning the ninth and tenth periodic reports of the Republic of Korea (CERD/C/54/Misc.24/Rev.2).

Paragraph 14

79. The CHAIRMAN said that no specific ethnic group should be singled out, and the words "particularly ethnic Chinese" should therefore be deleted, thus accommodating the feelings of several other Committee members.

80. Mr. DIACONU recalled the suggestion to replace "the Committee remained concerned that there appears to be" with "concern is expressed about".

81. Paragraph 14, as amended, was adopted.

Paragraph 15

82. Mr. SHERIFIS said it would be more appropriate to insert paragraph 15 under section E, suggestions and recommendations, the sentence being reworded to read: "The Committee recommends that the State party provide legal aid to victims of acts of racial discrimination and facilitate access to recourse procedures on the part of vulnerable groups".

83. It was so decided.

Paragraph 16

84. Paragraph 16 was adopted.

Paragraph 17

85. Mr. RECHETOV suggested deleting "all" before "the provisions".

86. Paragraph 17, as amended, was adopted.

Paragraph 18

87. In response to a request for clarification by the CHAIRMAN, Mr. van BOVEN (Country Rapporteur) explained that the term "industrial trainees" was in inverted commas in the text because it was a term used by the Korean Government, for whom the concluding observations were primarily intended. "Industrial trainees" were a special category of foreign workers who did the dirty, difficult and dangerous work and usually came from poorer Asian countries; the use of any other term would require a lengthy explanation.

88. Mr. RECHETOV said that exploitation did not fall within the mandate of the Committee, and it would therefore be preferable to use the phrase "discrimination against foreign workers".

89. Mr. SHAHI said that "discrimination against foreign workers" was too broad a term, since foreign workers could evidently not expect to enjoy all the same political rights as citizens of the country.

90. Mr. van BOVEN (Country Rapporteur) suggested specifying "discrimination in the labour conditions of foreign workers".

91. After a discussion in which Mr. GARVALOV, the CHAIRMAN and Mr. SHAHI took part, Mr. van BOVEN (Country Rapporteur) pointed out that "just and favourable conditions of work" came within the Committee's remit under article 5 (e) (i).

92. Paragraph 18, as amended, was adopted.

Paragraph 19

93. Paragraph 19, as amended, was adopted, with minor editorial changes.

Paragraph 20

94. Mr. DIACONU expressed doubts about the last sentence. How was it possible for the State to investigate cases where people had failed to lodge a complaint?

95. Mr. van BOVEN (Country Rapporteur) said that the final sentence had been suggested by an absent member of the Committee, but he took Mr. Diaconu's point and would agree to delete it.

96. Paragraph 20, as amended, was adopted.

Paragraph 21

97. The CHAIRMAN asked why, if the State party was already allocating "adequate resources", there should be any doubt that they would continue to do so? Could paragraph 21 perhaps be deleted?

98. Mr. SHAHI said that it would be preferable to retain the paragraph, given the Committee's consistent position that inadequate access to the courts for redress and reparation and the absence of reported cases of discrimination might in fact be due to insufficient knowledge of and publicity about remedy procedures.

99. Mr. DIACONU suggested that, since it was evident that the State party did not in fact do enough to facilitate dissemination, education and training the phrase "continue to allocate adequate resources" should be replaced with "allocate more resources".

100. Paragraph 21, as amended, was adopted.

Paragraph 22

101. Mr. RECHETOV said that the phrase "all the points raised" was too vague, and suggested replacing it by "the concerns raised".

102. Mr. van BOVEN (Country Rapporteur) suggested expanding the phrase to read "the concerns, suggestions and recommendations raised".

103. Paragraph 22, as amended, was adopted.

104. The draft concluding observations concerning the ninth and tenth periodic reports of the Republic of Korea as a whole, as amended, were adopted.

The meeting rose at 6.05 p.m.